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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed March 8, 2006. In the Office Action, the Examiner notes that claims 1-39 are pending and rejected. By this response, claims 1, 23, 32, and 35 are herein amended. Claims 22 and 29 are hereby cancelled.

In view of the both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

REJECTIONS**DOUBLE PATENTING REJECTION**

Claims 1-39 are rejected under the Judicially created doctrine of double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,879,582. Since a double patenting rejection depends on the claims of the application, until Applicants have claims that are allowable but for the double patenting rejection, Applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, Applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as this double patenting rejection is premature, Applicants will address such a ground of rejection once all other grounds of rejection are overcome.

35 U.S.C. §102**Claims 1-5, 7, and 23-27**

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The Examiner has rejected claims 1-5, 7, and 23-27 under 35 U.S.C. §102(b) as being anticipated by Chen et al. (U.S. 5,943,408, hereinafter referred to as "Chen"). Applicants respectfully traverse the rejection.

In general, Chen discloses a direct signaling system for providing system subscribers with the freedom to access service providers of their choice, regardless of their access network arrangement. The Chen system provides a home interface unit and a call server that enables a subscriber to send signaling messages to and receive messages from the service providers of their choice. The home interface unit and call server execute state machines that provide specific details of system operation. The call server state machine triggers a state machine and, thus, operation of the service specific servers chosen by the subscriber.

Chen, however, fails to teach or suggest each and every limitation of Applicants' invention of at least claim 1. Namely, Chen fails to teach or suggest at least the limitation of "switching the voice data to the same network as the signaling data when loss of local power is detected at the subscriber device," as taught in Applicants' invention of at least claim 1. Rather, Chen merely teaches a direct signaling link between a home interface unit and a call server, and a transport network link between the home interface unit and an access telecommunication switch. Chen is completely devoid of any teaching or suggestion of any switchover of voice data between networks, much less switching voice data to the same network as signaling data when loss of local power is detected at a subscriber device. As such, Chen fails to teach or suggest each and every element of Applicants' invention of at least claim 1.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added)). The Chen reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

As such, Applicants submit that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Moreover,

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independent claim 23 includes relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed above, independent claim 23 is also not anticipated and satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 2-5, 7, and 24-27 depend, either directly or indirectly, from independent claims 1 and 23 and recite additional limitations thereof. Hence, for at least the same reasons discussed above, Applicants submit that these dependent claims also are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

35 U.S.C. §103

Claims 9-13, 15-18, 20-21, 30-32, and 35-38

The Examiner has rejected claims 9-13, 15-18, 20-21, 30-31, and 35-38 under 35 U.S.C. §103(a) as being unpatentable over Chen. Applicants respectfully traverse the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added).

For at least the reasons discussed above in Applicants' response to the Examiner's 35 U.S.C. §102 rejection, the Chen reference fails to teach or suggest Applicants' invention as claimed in independent claims 1 and 23, as a whole. In particular, the Chen reference fails to teach or suggest at least the limitation of "switching the voice data to the same network as the signaling data when loss of local power is detected at the subscriber device," as taught in Applicants' invention of at least claim 1. As such, since independent claims 11 and 35 include relevant limitations similar to those recited in independent claims 1 and 23, for at least the same reasons

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discussed hereinabove, the Chen reference fails to teach or suggest Applicants' invention, as claimed in independent claims 11 and 35, as a whole.

As such, Applicants submit that independent claims 1, 11, 23, and 35 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 9-13, 15-18, 20-21, 30-31 and 36-38 depend, either directly or indirectly, from independent claims 1, 11, 23, and 35 and recite additional features thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims also are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

Claims 6, 8, 14, 19, 28, 32-34, and 39

The Examiner has rejected claims 6, 8, 14, 19, 28, 32-34, and 39 as being unpatentable over Chen in view of Hamalainen et al. (U.S. 5,802,465, hereinafter referred to as "Hamalainen"). Applicants respectfully traverse the Examiner's rejection.

For at least the reasons discussed above, the Chen reference fails to teach or suggest Applicants' invention as claimed in independent claims 1, 11, 23, and 35, as a whole. In particular, the Chen reference fails to teach or suggest at least the limitation of "switching the voice data to the same network as the signaling data when loss of local power is detected at the subscriber device," as taught in Applicants' invention of at least claim 1. As such, since independent claim 32 includes relevant limitations similar to those recited in independent claims 1, 11, 23, and 35, for at least the same reasons discussed hereinabove, the Chen reference fails to teach or suggest Applicants' invention, as claimed in independent claim 32, as a whole. Furthermore, Hamalainen fails to bridge the substantial gap as between Chen and Applicants' invention.

In general, Hamalainen discloses a system for bidirectional transmission of packet data. The Hamalainen system includes a packet data service unit disposed in a digital cellular system and connected to be in association with a Mobile Switching Center, connecting the cellular network to the data network. In particular, Hamalainen discloses that, as a mobile station is connected to the packet data service unit, signaling

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related to connection formation characteristics of the network enables the mobile station and the data service unit to be provided with a number of stored parameters relating to each other. Hamalainen further discloses that when a mobile station wants to transmit or receive data packets between the mobile station and the data service unit a packet data transfer channel is established making use of the parameters. (Hamalainen, Abstract).

Hamalainen, however, fails to teach or suggest Applicants' invention, as a whole. Namely, Hamalainen fails to teach or suggest at least the limitation of "switching the voice data to the same network as the signaling data when loss of local power is detected at the subscriber device," as taught in Applicants' invention of at least claim 1. Hamalainen Chen is completely devoid of any teaching or suggestion of any switchover of voice data between networks, much less switching voice data to the same network as signaling data when loss of local power is detected at a subscriber device. As such, Hamalainen, alone or in combination with Chen, fails to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that independent claim 1, 11, 23, 32 and 35 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 6, 8, 14, 19, 28, 33-34 and 39 depend, either directly or indirectly, from independent claims 1, 11, 23, 32 and 35 and recite additional features thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims also are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

ALLOWABLE SUBJECT MATTER

The Examiner has indicated that claims 22 and 29 would be allowable if rewritten or amended to overcome the rejection(s) under Double Patenting set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. Applicants have herein amended the independent claims to include the limitation of the

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allowable claims. Thus, Applicants respectfully request that the rejections be withdrawn.

SECONDARY REFERENCES

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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CONCLUSION

Thus, Applicants submit that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Michael Bentley at (732) 383-1434 or Mr. Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

6/8/06

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